



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:

Laure AURELIAN et al

Conf. No.: 4258

Appln. No.: 09/992,453

Group Art Unit: 1617

Filed: November 16, 2001

Examiner: R.S. Travers

For: PREVENTION OF RECURRENT VIRAL DISEASE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In the Office Action, dated December 4, 2003, the Examiner requires Applicants to elect one of the following four groups of inventions:

Group I - Claims 1-16 and 21, drawn to a method for treating conditions collateral to Herpes simplex virus (HSV) infections by administering a HSV virus or antigenic HSV viral protein to produce a specific antigenic response;

Group II - Claims 5, 17-20 and 26-28, drawn to method for treating conditions collateral to Herpes simplex virus (HSV) infections by administering a HSV viral nucleic acid coding for an antigenic HSV viral protein to produce a specific antigenic response;

Group III - Claims 29-35, drawn to a vaccine composition containing various carriers and excipients and antigenic proteins from various Herpes simplex virus (HSV) useful for producing various specific antigenic responses; or

Group IV - Claims 36-38, drawn to a method for identifying various antigenic moieties providing maximal therapeutic benefit in treating conditions collateral to Herpes simplex virus (HSV) infections by administering various HSV virus or antigenic HSV viral proteins and quantifying the specific Th1 antigenic response.

In response, Applicants first respectfully note that the Examiner appears to have mistakenly included claim 5 in both Group I and Group II. Applicants believe that claim 5 should be included in only Group I. Applicants also believe that claim 20 should be included in Group I. The Examiner also neglected to include claims 22-25 in any group. Applicants believe that these four claims should be included in Group I. Thus, the listing of claims should be as follows:

Group I - Claims 1-16 and 20-25

Group II - Claims 17-19 and 26-28

Group III - Claims 29-35

Group IV - Claims 36-38

As to the restriction, Applicants hereby elect **Group II**, pertaining to claims 17-19 and 26-28. This election is made **with** traverse.

Applicants respectfully traverse the restriction as between Groups I and II on the basis that combining the nucleic acids of Group II (encoding the proteins of Group I) with the proteins of Group I would not require any additional searching on the part of the Examiner, and therefore no undue burden would be imposed. These two groups of claims simply recite a method of treating conditions, collateral to Herpes simplex virus (HSV) infections, by administering an HSV protein or the polynucleotide encoding the protein. A search of the art for such a method with regard to the polynucleotide encoding the HSV protein would also inherently be a search

for the method with regard to the HSV protein. As no additional search would be required, there would be no undue burden on the Examiner.

Therefore, Applicants respectfully request rejoinder of the claims of Groups I and II.

Applicants note that the Revocation and Appointment of Attorneys, filed June 5, 2002, has now been entered in this application. Applicants respectfully request that the Attorney Docket number be updated to be "A8365."

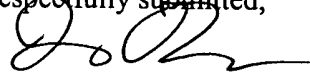
SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Respectfully submitted,



Drew Hissong
Registration No. 44,765

Date: December 16, 2003